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Separate paging is given to this Part in order that it may be filed as a separate compilation

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 4th December, 1987:—

BILL NO. LI OF 1987

A Bill further to amend the Administrative Tribunals Act, 1985.

BE it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Administrative Tribunals (Amendment) Act, 1987.

13 of 1985.

Amendment of section 2.

2. In section 2 of the Administrative Tribunals Act, 1985 (hereinafter referred to as the principal Act), in clause (*c*), after the words "any High Court", the words "or courts subordinate thereto" shall be inserted.

Amendment of section 6.

3. In section 6 of the principal Act,—

(*a*) in sub-section (*1*), the word "or" occurring at the end of clause (*b*) and clause (*c*) shall be omitted;

(*b*) in sub-section (*2*), for clause (*a*), the following clause shall be substituted, namely:—

"(*a*) is, or has been, or is qualified to be, a Judge of a High Court; or";

(c) for sub-section (7), the following sub-section shall be substituted, namely:—

"(7) No appointment of a person possessing the qualifications specified in this section as the Chairman, a Vice-Chairman or a Member shall be made except after consultation with the Chief Justice of India.".

Substitution of new section for section 8.

4. For section 8 of the principal Act, the following section shall be substituted, namely:—

Term of office.

"8. The Chairman, Vice-Chairman or other Member shall hold office as such for a term of five years from the date on which he enters upon his office, but shall be eligible for re-appointment for another term of five years:

Provided that no Chairman, Vice-Chairman or other Member shall hold office as such after he has attained,—

(a) in the case of the Chairman or Vice-Chairman, the age of sixty-five years, and

(b) in the case of any other Member, the age of sixty-two years.".

Amendment of section 29.

5. In section 29 of the principal Act, after sub-section (5), the following sub-sections shall be inserted, namely:—

"(6) Every case pending before a Tribunal immediately before the commencement of the Administrative Tribunals (Amendment) Act, 1987, being a case the cause of action whereon it is based is such that it would have been, if it had arisen after such commencement, within the jurisdiction of any court, shall, together with the records thereof, stand transferred on such commencement to such court.

(7) Where any case stands transferred to a court under sub-section (6), that court may proceed to deal with such case from the stage which was reached before it stood so transferred.".

Insertion of new section 36A.

6. After section 36 of the principal Act, the following section shall be inserted, namely:—

Power to make rules retrospectively.

"36A. The power to make rules under clause (c) of sub-section (2) of section 35 or clause (b) of section 36 shall include the power to make such rules or any of them retrospectively from a date not earlier than the date on which this Act received the assent of the President, but no such retrospective effect shall be given to any such rule so as to prejudicially affect the interests of any person to whom such rule may be applicable.".

STATEMENT OF OBJECTS AND REASONS

The Administrative Tribunals Act, 1985 was passed by both Houses of Parliament in January, 1985 and received the assent of the President on 27th February, 1985. In pursuance of the provisions of the Act, the Central Administrative Tribunal, with the Principal Bench at Delhi and Benches at New Bombay, Calcutta, Madras and Allahabad was established on 1-11-1985. Subsequently, Benches of the Tribunal had been set up at Jabalpur, Jodhpur, Cuttack, Ahmedabad, Bangalore, Patna, Chandigarh, Guwahati and Hyderabad.

2. The constitutional validity of the Administrative Tribunals Act was challenged in the Supreme Court as well as in different High Courts. The Supreme Court, while disposing of the writ petitions, made certain directions for amending the Administrative Tribunals Act. It is necessary to make certain amendments to the Act in the light of the directions of the Supreme Court.

3. It is accordingly proposed to make, *inter alia*, the following amendments to the Act, namely:—

(1) It is proposed to exclude from the jurisdiction of an Administrative Tribunal the powers to adjudicate disputes with respect to officers and employees of the subordinate courts and to make a provision for transfer of cases pending in Administrative Tribunals to the Courts concerned.

(2) The appointment of the Chairman, Vice-Chairman and Members of the Administrative Tribunals will be made in consultation with the Chief Justice of India. The Act, at present provides for consultation with the Chief Justice of India only in respect of Judicial Members.

(3) The Chairman, Vice-Chairman and other Members of the Administrative Tribunals are being made eligible for re-appointment for a second term of office.

(4) It is proposed to empower the Central Government and the appropriate Government to frame rules relating to salary and allowances and conditions of service of Chairman and other Members of a Tribunal and their officers and employees retrospectively wherever necessary. The immediate necessity for this has arisen due to revision of salary and allowances of the High Court Judges as well as the Central Government employees.

4. The Bill seeks to achieve the aforesaid objects.

P. CHIDAMBARAM.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill seeks to insert a new section 36A in the Administrative Tribunals Act, 1985 so as to enable the Central Government and the appropriate Government, while making rules under sections 35 and 36 of the Act, to give retrospective effect to rules that may be made under clause (c) of sub-section (2) of section 35 or clause (b) of section 36 of the Act. The matters with respect to which rules may be made retrospectively may relate to the salaries and allowances payable to, and the other terms and conditions of service of, the Chairman, Vice-Chairman and other Members, and the salaries and allowances and conditions of service of the officers and other employees of a Tribunal. The new section 36A specifically provides that any retrospective effect given to a rule shall not prejudicially affect the interests of any person to whom such rule may be made applicable. In view of this provision, the delegation of legislative power can be said to be normal in character.

SUDARSHAN AGARWAL,
Secretary-General.

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